



DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-850]

Thermal Paper from Germany: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that thermal paper from Germany is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is October 1, 2019, through September 30, 2020.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: David Goldberger, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4136.

SUPPLEMENTARY INFORMATION:

Background

On May 12, 2021, Commerce published in the *Federal Register* the preliminary affirmative determination in the LTFV investigation of thermal paper from Germany, in which we also postponed the final determination until September 24, 2021.¹ Commerce invited interested parties to comment on the *Preliminary Determination*. A summary of the events that

¹ See *Thermal Paper from Germany: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures*, 86 FR 26001 (May 12, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM); see also *Thermal Paper from Germany: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances in Part, Postponement of Final Determination, and Extension of Provisional Measures; Correction*, 86 FR 26905 (May 18, 2021) (correcting the suspension of liquidation instructions in the *Preliminary Determination*).

occurred since Commerce published the *Preliminary Determination* may be found in the Issues and Decision Memorandum.²

Scope of the Investigation

The product covered by this investigation is thermal paper from Germany. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

On May 5, 2021, Commerce issued the Preliminary Scope Decision Memorandum.³ We received comments from interested parties regarding the Preliminary Scope Decision Memorandum, which we addressed in the Final General Scope Decision Memorandum, and Final Germany Scope Decision Memorandum.⁴ Commerce made no changes to the scope of this investigation since the *Preliminary Determination*.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn>.

Methodology

² See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination of Sales at Less Than Fair Value in the Antidumping Duty Investigation of Thermal Paper from Germany," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See Memorandum, "Preliminary Scope Decision," dated May 5, 2021 (Preliminary Scope Decision Memorandum).

⁴ See Memorandum, "Thermal Paper from Germany, Japan, the Republic of Korea, and Spain: Final Decision on General Scope Issues: Final Decision on General Scope Issues," dated concurrently with, and hereby adopted by, this notice (Final General Scope Decision Memorandum); and Memorandum, "Thermal Paper from Germany: Final Scope Decision," dated concurrently with, and hereby adopted by, this notice (Final Germany Scope Decision Memorandum).

Commerce is conducting this investigation in accordance with section 731 of the Tariff Act of 1930, as amended (the Act). Constructed export price is calculated in accordance with section 772(b) of the Act. Normal value is calculated in accordance with section 773 of the Act.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Act.⁵

Changes Since Preliminary Determination

Based on our analysis of the comments received, we made certain changes to Papierfabrik August Koehler SE (Koehler)'s margin calculations. For a discussion of these changes, *see* the "Margin Calculations" section of the Issues and Decision Memorandum.

Final Affirmative Determination of Critical Circumstances, in Part

Consistent with the *Preliminary Determination*, Commerce continues to determine that critical circumstances exist within the meaning of section 735(e) of the Act and 19 CFR 351.206 for Koehler, but not the companies covered by the all-others rate. For a discussion of the issues raised regarding Commerce's affirmative critical circumstances determination, *see* the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and margins determined entirely under section 776 of the Act.

⁵ *See* Commerce's Letter, In-Lieu of Verification Questionnaire to Koehler, dated July 1, 2021; Commerce's Letter, In-Lieu of Verification Questionnaire to Matra Americas, LLC (Matra), dated July 6, 2021; Koehler's Letter, "Koehler's In Lieu of On-site Verification Questionnaire Response," dated July 13, 2021; and Matra's Letter, "Matra's In Lieu of Onsite Verification Questionnaire Response," dated July 14, 2021.

Commerce calculated an individual estimated weighted-average dumping margin for Koehler, the only individually examined exporter/producer in this investigation. Because the only individually calculated dumping margin is not zero, *de minimis*, or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for Koehler is the margin assigned to all other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Final Determination

Pursuant to section 735 of the Act, the final estimated weighted-average dumping margins are as follows:

Exporter/Producer	Estimated Weighted-Average Dumping Margin (percent)
Papierfabrik August Koehler SE	2.90
All Others	2.90

Disclosure

We intend to disclose the calculations performed in this final determination within five days of any public announcement, or if there is no public announcement, within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue the suspension of liquidation of all entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after May 12, 2021, the date of publication in the *Federal Register* of the affirmative *Preliminary Determination*. Further, in accordance with section 733(e)(2)(A) of the Act, Commerce will instruct CBP to continue the suspension of liquidation of entries of subject merchandise, as described in Appendix I, produced and/or exported by Koehler which entered, or

were withdrawn from warehouse, for consumption on or after February 11, 2021, which is 90 days before the date of publication in the *Federal Register* of the affirmative *Preliminary Determination*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin, as follows: (1) the cash deposit rate for the respondent listed above will be equal to the company-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of this final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of thermal paper from Germany no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, all cash deposits posted will be refunded, and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the "Continuation of Suspension of Liquidation" section.

Notification Regarding Administrative Protective Orders

This notice will serve as a final reminder to the parties subject to administrative protection order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination and this notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: September 24, 2021.

Christian Marsh,
Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The scope of this investigation covers thermal paper in the form of “jumbo rolls” and certain “converted rolls.” The scope covers jumbo rolls and converted rolls of thermal paper with or without a base coat (typically made of clay, latex, and/or plastic pigments, and/or like materials) on one or both sides; with thermal active coating(s) (typically made of sensitizer, dye, and co-reactant, and/or like materials) on one or both sides; with or without a top coat (typically made of pigments, polyvinyl alcohol, and/or like materials), and without an adhesive backing. Jumbo rolls are defined as rolls with an actual width of 4.5 inches or more, an actual weight of 65 pounds or more, and an actual diameter of 20 inches or more (jumbo rolls). All jumbo rolls are included in the scope regardless of the basis weight of the paper. Also included in the scope are “converted rolls” with an actual width of less than 4.5 inches, and with an actual basis weight of 70 grams per square meter (gsm) or less.

The scope of this investigation covers thermal paper that is converted into rolls with an actual width of less than 4.5 inches and with an actual basis weight of 70 gsm or less in third countries from jumbo rolls produced in the subject countries.

The merchandise subject to this investigation may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 4811.90.8030 and 4811.90.9030. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Sections Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes Since the Preliminary Determination
- IV. Discussion of the Issues
 - Comment 1. Application of Cohen's *d* Test
 - Comment 2. Critical Circumstances
 - Comment 3. Product Characteristic Reporting for Certain Products
 - Comment 4. Whether to Apply Adverse Facts Available for Sales of Certain Products
 - Comment 5. Whether to Make an Adjustment for Interest on Unpaid Antidumping Duties
 - Comment 6. Whether to Grant Certain Home Market Post-Sale Price Adjustments
 - Comment 7. Selection of U.S. Dollar Short-Term Borrowing Rate
 - Comment 8. Calculation of U.S. Inventory Carrying Costs
 - Comment 9. Whether to Exclude a U.S. Sample Sale
 - Comment 10. Ministerial Errors in the *Preliminary Determination*
- V. Recommendation